

Commissioner for Patents
Page 2

Serial No.: 09/739,902

R E M A R K S / A R G U M E N T S

Applicants wish to thank the Examiner for indicating that claims 6, 7, 12, 13, 18, 19, 22, 23, 28, 29, 32 and 33 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Examiner has rejected claims 1-5, 8-11, 14-17, 20, 21, 24-27, 30 and 31 under 35 USC 102(e) as being anticipated by Cao et al. (U.S. Patent No. 6,721,269). The Examiner has asserted that Cao teaches maintaining a back-up link in a dormant state such that no traffic is forwarded to the back-up link during normal operation of the network.

With respect, Cao does not teach the maintenance of a back-up in a dormant state. Rather, Cao teaches that the back-up link is not dormant but carrying data. In column 4, lines 44-52, Cao expressly states that "the sink router selects one of these explicitly routed paths as the primary path and communicates along that path. Upon a failure in a path selected as a primary path, a secondary path is instantaneously selected as the new primary path. Since the new route is already established, and data is already flowing to the sink router along the secondary path, a path need not be computed." Since data is already flowing on the secondary path (i.e., the back-up link), the back-up link is not dormant. Accordingly, Cao clearly does not teach the maintenance of the back-up link in a dormant state. In fact, Cao teaches away from the solution taught by the present application by providing a back-up link over which data is already flowing when a failure occurs in the primary path. In view of this fundamental difference, it is respectfully submitted that claims 1-5, 8-11, 14-17, 20, 21, 24-27, 30 and 31 are not anticipated by Cao. The anticipation rejection is thus believed to be improper and should be withdrawn.

Reconsideration of this application is respectfully requested.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees

Commissioner for Patents
Page 3

Serial No.: 09/739,902

required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our
Deposit Account No. 19-5113.

Respectfully submitted,

Valerie A. SIMPSON et al.

By 
Matthew M. Roy
Registration No. 48,074
Attorney for Applicants

MMR/sw

Address:
OGILVY RENAULT
1981 McGill College Avenue, Suite 1600
Montreal, Quebec, Canada H3A 2Y3
Tel. (613) 780-8659